

Amendments to Senate Bill No. 189  
1st Reading Copy*from Ali  
Bovington  
(in AG's  
office)*

Requested by Senator Larry Jent

For the Senate Judiciary Committee

Prepared by Valencia Lane  
January 28, 2009 (7:54am)

1. Title, line 7 through line 8.

**Following:** "PROCEEDS" on line 7**Strike:** remainder of line 7 through "MADE" on line 8

2. Page 1, line 22.

**Following:** "of consumers"**Strike:** "to the consumers on whose behalf the settlement is made  
on a pro rata basis"

3. Page 1, line 23.

**Following:** "distributed"**Strike:** "to consumers pursuant to this subsection (1)(b) within 1  
year after the proceeds are received"**Insert:** "for the benefit of consumers pursuant to the terms of  
the settlement"

4. Page 1, line 25.

**Following:** line 24**Insert:** "(2) The procedures adopted by the department pursuant to  
subsection (1)(b) must include the establishment of a  
consumer advisory council by the attorney general in  
accordance with 2-15-122. The consumer advisory council  
must include five members consisting of one consumer  
advocate, two legislative members representing both elected  
parties, and two citizens at large. The consumer advisory  
council shall review settlements obtained by the department  
and shall provide recommendations to the attorney general to  
ensure that the proceeds of any settlement are distributed  
to consumers or consumer groups on whose behalf the  
settlement was obtained.(3) The attorney general shall provide an annual report to  
the legislative audit committee describing the settlements  
obtained by the department and how the settlement proceeds were  
distributed."**Renumber:** subsequent subsection

5. Page 2, line 7.

**Following:** "of consumers"**Strike:** "to the consumers on whose behalf the settlement is made"

on a pro rata basis"

6. Page 2, line 8.

**Following:** "distributed"

**Strike:** "to consumers pursuant to this subsection within 1 year after the proceeds are received"

**Insert:** "for the benefit of consumers pursuant to the terms of the settlement"

7. Page 2, line 10.

**Following:** line 9

**Insert:** "(3) The procedures adopted by the department pursuant to subsection (2) must include the establishment of a consumer advisory council by the attorney general in accordance with 2-15-122. The consumer advisory council must include five members consisting of one consumer advocate, two legislative members representing both elected parties, and two citizens at large. The consumer advisory council shall review settlements obtained by the department and shall provide recommendations to the attorney general to ensure that the proceeds of any settlement are distributed to consumers or consumer groups on whose behalf the settlement was obtained.

(4) The attorney general shall provide an annual report to the legislative audit committee describing the settlements obtained by the department and how the settlement proceeds were distributed."

- END -

## SENATE BILL NO. 189

INTRODUCED BY J. BALLYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE DISPOSITION OF CIVIL FINES, SETTLEMENT PROCEEDS, COSTS, AND FEES RECOVERED IN CONSUMER PROTECTION ACTIONS; DIRECTING THE ADOPTION OF PROCEDURES FOR DISTRIBUTION OF SETTLEMENT PROCEEDS RECEIVED ON BEHALF OF CONSUMERS TO THE CONSUMERS ON WHOSE BEHALF THE SETTLEMENT IS MADE; AMENDING SECTIONS 30-14-143 AND 30-14-226, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 30-14-143, MCA, is amended to read:

**"30-14-143. Disposition of civil fines, settlement proceeds, costs, and fees.** (1) (a) ~~All~~ Subject to subsection (1)(b), all civil fines, settlement proceeds, costs, and fees received or recovered by the department pursuant to this part must be deposited into a state special revenue account to the credit of the department and must be used to defray the expenses of the department in discharging its administrative and regulatory powers and duties in relation to this part. The balance in the account may not exceed <sup>two times</sup> the amount of the budget for the current biennium and the projected budget for the succeeding biennium. Any excess civil fines, settlement proceeds, costs, or fees must be transferred to the general fund.

(b) The department shall adopt procedures designed to distribute settlement proceeds received on behalf of consumers to the consumers on whose behalf the settlement is made on a pro-rata basis. Settlement proceeds not distributed to consumers pursuant to this subsection (1)(b) within 1 year after the proceeds are received are subject to the provisions of subsection (1)(a).

(4) (2) All civil fines, settlement proceeds, costs, and fees received or recovered by a county attorney pursuant to this part must be paid to the general fund of the county in which the action was commenced."

**Section 2.** Section 30-14-226, MCA, is amended to read:

**"30-14-226. Disposition of civil fines, settlement proceeds, costs, and fees.** (1) ~~All~~ Subject to subsection (2), all civil fines, settlement proceeds, costs, and fees received or recovered by the department

(OVER)

pursuant to this part must be deposited into a state special revenue account to the credit of the department and must be used to defray the expenses of the department in discharging its administrative and regulatory powers and duties in relation to this part. The balance in the account may not exceed the amount of the budget for the current biennium and the projected budget for the succeeding biennium. Any excess civil fines, settlement proceeds, costs, or fees must be transferred to the general fund.

(2) The department shall adopt procedures designed to distribute settlement proceeds received on behalf

~~of consumers to the consumers on whose behalf the settlement is made on a pro rata basis.~~ Settlement proceeds

~~not distributed to consumers pursuant to this subsection within 4 year after the proceeds are received are subject~~ *for the benefit of consumers pursuant to the terms of the settlement*

~~to the provisions of subsection (1)."~~ *11*

*Insert (3) (4)*

**NEW SECTION. Section 3. Effective date.** [This act] is effective July 1, 2009.

- END -